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MARK D. SARALINO (GENERAL) RENNER, OTTO, BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE, NINETEENTH FLOOR CLEVELAND, OH 44115-2191			WALDBAUM, SAMUEL A	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MASAHIRO NISHIO and
KAZUHIKO TANIGUCHI

Appeal 2009-013240
Application 10/824,023
Technology Center 1700

Before PETER F. KRATZ, KAREN M. HASTINGS, and
MICHAEL P. COLAIANNI, *Administrative Patent Judges*.

COLAIANNI, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

This is a decision on an appeal under 35 U.S.C. § 134 from the Examiner's refusal to allow claims 1, 3, 5 through 8, and 10 through 14. We have jurisdiction pursuant to 35 U.S.C. § 6.

We REVERSE.

STATEMENT OF THE CASE

The subject matter on appeal is directed to a washing machine.

The Examiner maintains the following rejections:

- 1) Claims 1 and 3 under 35 U.S.C. § 103(a) over Totterdell (EP 0028067 A1, published May 6, 1981) and Ohsugi (US 4,955,213, issued Sept. 11, 1990);
- 2) Claims 5, 8, and 10 under 35 U.S.C. § 103(a) over Totterdell, Ohsugi, and further in view of Dirnberger (US 6,840,553 B2, issued Jan. 11, 2005);
- 3) Claims 6 and 7 under 35 U.S.C. § 103(a) over Totterdell, Ohsugi, and Dirnberger, and further in view of Babuin (US 4,696,171, issued Sept. 29, 1987) and Nakamura (US 5,000,015, issued Mar. 19, 1991);
- 4) Claims 11-13 under 35 U.S.C. § 103(a) over Totterdell, Ohsugi, and Dirnberger, and further in view of Nakamura;
- 5) Claim 14 under 35 U.S.C. § 103(a) over Totterdell, Ohsugi, Dirnberger, and Nakamura, and further in view of Kronbetter (US 6,256,823 B1, issued Jul. 10, 2001).

Rejection (1)

ISSUE

Did the Examiner err in determining that the combined teachings of the applied prior art references would have suggested a washing machine having the control portion required by claims 1 and 3 within the meaning of § 103? We decide this issue in the affirmative.

PRINCIPLES OF LAW

“[T]he claims themselves provide substantial guidance as to the meaning of particular claim terms.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005).

“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

ANALYSIS AND CONCLUSION

We begin by noting the scope of claims 1 and 3 based on their plain meaning requires that the control portion be configured to recognize when a wash cycle is completed, and upon such recognition to cause the water level detecting unit to detect water level in the water tank or to cause the leakage detecting unit to monitor water leakage at the water feed unit only for a prescribed time period.

In other words, Appellants’ use of these limitations in claims 1 and 3 require that the washing machine’s control portion be “configured” (i.e., programmed) to recognize when a wash cycle is completed, *and upon such*

recognition to cause the water level detecting unit to detect water level in the water tank only for a prescribed time period or to cause the leakage detecting unit to monitor water leakage at the water feed unit only for a prescribed time period.

Turning our attention to the rejection, Appellants argue that “Totterdell and Ohsugi each lack several features recited in independent claims 1 and 3 (and independent claim 8 as well). In addition, a combination of Totterdell and Ohsugi does not result in or disclose the claimed invention.” (App. Br. 12 and 13). Specifically, Appellants argue that

Totterdell is concerned with detecting a blockage which may prevent appropriate draining. . . . There . . . is no need in Totterdell to monitor the water level once the draining portion of the cycle is complete to detect a drain blockage. . . . Ohsugi discloses a conventional auto shutoff that shuts off the power after an arbitrary time after the wash cycle. Accordingly, although a controller in Ohsugi may be able to recognize when the wash cycle is completed, Ohsugi does not disclose or suggest, as claimed, a controller that, upon such recognition, is configured to cause a water level detecting unit to detect water level in the water tank.

(App. Br. 11 and 12).

While the Examiner states (Ans. 4) that “one of ordinary skill in the art would have been motivated to program the control portion of ‘067 [Totterdell] to switch the power source of ‘213 [Ohsugi] to the ‘off’ position in order to conserve energy while the machine was not in use,” the Examiner fails to direct us to any credible evidence or provide any persuasive explanation to show that Totterdell and Ohsugi would have suggested a

washing machine having a control portion that is “configured” (i.e., programmed) in the manner required by claims 1 and 3.

In this regard, if a person of ordinary skill in the art were to program Totterdell’s control portion to switch the power source to the “off” position, as suggested by the Examiner, it is unclear to us how this control portion also recognizes when the wash cycle is completed, *and upon such recognition to cause the water level detecting unit to detect water level in the water tank only for a prescribed time period or to cause the leakage detecting unit to monitor water leakage at the water feed unit only for a prescribed time period as required by claims 1 and 3.*

The Examiner simply fails to *explain* why it would have been obvious to combine Totterdell and Ohsugi to arrive at a washing machine having a control portion “configured” (i.e., programmed) in the manner required by claims 1 and 3.

Thus, it follows that the Examiner erred in determining that the combined teachings of the applied prior art references would have suggested a washing machine having the control portion required by claims 1 and 3 within the meaning of § 103.

Accordingly, we reverse the Examiner’s rejection (1).

Rejections (2) through (5)

The Examiner relies on the same factual findings and determinations discussed above and does not provide any additional findings or determinations as to how any of the other applied prior art references would

Appeal 2009-013240
Application 10/824,023

have satisfied these disputed claim features. Therefore, for the reasons stated above, we reverse the Examiner's rejections (2) through (5).

ORDER

In summary, rejections (1) through (5) are reversed.

Accordingly, the Examiner's decision is reversed.

REVERSED

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MARK D. SARALINO (GENERAL)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, NINETEENTH FLOOR
CLEVELAND, OH 44115-2191